United States District Court Southern District of Texas

ENTERED

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION November 02, 2021 Nathan Ochsner, Clerk

CARLOS MANUEL AYESTAS,	§	
	§	
Petitioner,	§	
	§	
V.	§	
	§	CIVIL ACTION NO. H-09-2999
BOBBY LUMPKIN, Director,	§	
Texas Department of Criminal	§	•
Justice, Correctional	S	
Institutions Division,	§	
	S	
Respondent.	§	

ORDER

On August 12, 2021, the court granted petitioner Carlos Manuel Ayestas' motion for relief from a judgment under Fed. R. Civ. P. 60(b) and vacated its previous order denying his motion to amend a Rule 59(e) motion. Respondent has filed an Opposed Motion for Reconsideration of the Court's August 12, 2021 Order and Related Scheduling Directive, With Brief in Support ("Respondent's Motion") (Docket Entry No. 98); petitioner has filed his Opposition to the Director's Motion for Reconsideration and Motion for Deferred Scheduling Order (Docket Entry No. 102); and respondent has filed a Corrected Reply in Support of Motion for Reconsideration of the Court's August 12, 2021 Order and Related Scheduling Directive, With Brief in Support (Docket Entry No. 106).

Respondent's Motion is based on arguments previously raised in his opposition to the Rule 60(b) motion, on possible defenses to

claims raised in Ayestas' amended Rule 59(e) motion, and on hypothetical objections to discovery requests by Ayestas. The former were considered and rejected by this court in granting the Rule 60(b) motion, and the latter may be urged in response to Ayestas' amended petition and in response to any discovery Ayestas seeks.

Respondent also seeks clarification of the August 12, 2021, Order. The order vacated the court's previous order denying Ayestas' motion to amend and granted him leave to file an amended petition for a writ of habeas corpus raising claims arising out of the discovery of a prosecutor's memorandum listing Ayestas' national origin and citizenship status as possible reasons to seek the death penalty.

Respondent Lumpkin's Opposed Motion for Reconsideration of the Court's August 12, 2021 Order and Related Scheduling Directive (Docket Entry No. 98) and Opposed Motion to Defer Entry of Scheduling Order (Docket Entry No. 99) are DENIED.

SIGNED at Houston, Texas, on this 2nd day of November, 2021.

SIM LAKE

SENIOR UNITED STATES DISTRICT JUDGE